



**U.S. Department of Justice**

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Eastern District of New York*

SLR:KMA; 2019V03293

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September 1, 2020

BY ECF

Honorable Ramon E. Reyes, Jr.  
United States Magistrate Judge  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: CLEAR, et al. v. United States Customs and Border Protection,  
Civil Action No. 19-CV-07079 (EK) (RER)

Dear Judge Reyes:

This letter motion is respectfully submitted on behalf of the parties in accordance with Your Honor's Scheduling Order dated April 20, 2020, which directed us to submit a joint status report on how we want to proceed in this action pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552.

Defendant United States Customs and Border Protection ("CBP") completed its production of the remaining records responsive to Plaintiffs' FOIA request on August 7, and provided a "*Vaughn* index" for the documents withheld in their entirety one week later (August 14). Upon review of the records produced and the "*Vaughn* index," Plaintiffs have decided to challenge a number of CBP's withholdings and the adequacy of some of the searches. Plaintiffs and Defendant intend to cross-move for summary judgment.

The parties propose September 15, 2020 as the date by which they are to submit their requests for a pre-motion conference in accordance with Your Honor's Motion and Individual Practice Rules.<sup>1</sup> However, because FOIA actions ordinarily are resolved through summary judgment motion practice, with the agency filing declarations detailing its search, response and

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<sup>1</sup> On August 28, 2020, the parties filed the executed Notice, Consent, and Reference of a Civil Action to a Magistrate Judge form consenting to Your Honor conducting all proceedings in this case. Dkt. #23. By Order dated August 31, 2020, Judge Komitee referred this case for the conducting of all proceedings. Dkt. #24.

assertion of exemptions from withholding, the parties respectfully submit that it may be appropriate to waive the pre-motion conference request requirement and the conference in this action.

In the event that Your Honor may choose to dispense with the pre-motion conference requirement, the parties propose the following briefing schedule for their contemplated motions:

**October 16, 2020** Defendant to serve its motion for summary judgment

**November 20, 2020** Plaintiffs to serve their cross-motion for summary judgment and opposition to Defendant's motion

**December 18, 2020** Defendant to serve its reply and opposition to Plaintiffs' motion

**January 15, 2021** Plaintiffs to serve their reply

**January 18, 2021** Filing of the fully briefed motions

Thank you for Your Honor's consideration of this submission.

Respectfully submitted,

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